IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO. 264 OF 2004

IN

SUMMARY SUIT NO. 286 OF 2004

Sanjeev C. Nayak .. Plaintiff

versus

Hitesh V. Joshi .. Defendant

...

Mr.A.P. Rege for the plaintiff.

None for the defendant.

CORAM : D.G. KARNIK,J.

DATED : 21st February 2005.

P.C.:

1. Heard the learned counsel for the plaintiff. None present for the defendant.

2. The learned counsel for the plaintiff hands in affidavit of service dated 15th January 2005.

Affidavit is taken on record. The learned counsel for the plaintiff also hands in original document along with a list. The documents are taken on record and collectively marked Exhibit-A for identification. I have perused the plaint as well as the original documents.

3. The plaintiff advanced loan of Rs.7,00,000/- to the defendant. The defendant executed a promissory note on 3rd January 2001 agreeing to pay on demand the said land. The defendant repaid Rs.2,00,000/- and balance of Rs.5,00,000/- is due and payable by the defendant. The plaintiff issued notice of demand. The defendant has failed and neglected to make the payment.

4. Despite service of Summons for Judgement, the defendant has not applied for leave to defend nor has he filed any affidavit in reply. In the circumstances, the averments made in the plaint are deemed to be admitted. The plaintiff is entitled to a decree under clause (a) of sub rule(6) of Rule 3 of Order 37 of the Code of Civil Procedure. Hence, I pass the following order:

5. Summons for Judgement is made absolute and the suit of the plaintiff is decreed as follows:

6. The defendant shall pay to the plaintiff a sum of Rs.5,00,000/- together with interest at 9% p.a. from the date of the suit till payment and all costs of the suit.

D.G. KARNIK, J